

Theresa Rice

From: Roz Lassoff on behalf of Council
Sent: Thursday, June 21, 2012 8:11 AM
To: Theresa Rice
Subject: FW: SMP comments re non-conforming and buffers

Roz Lassoff
Rosalind D. Lassoff, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

From: CLAESHAG@aol.com [mailto:CLAESHAG@aol.com]
Sent: Thursday, June 21, 2012 12:50 AM
To: Council
Subject: SMP comments re non-conforming and buffers

Hello,

First, we are hoping that you are taking the words of the citizens on Bainbridge Island into consideration as the MOST IMPORTANT input into what should be in the SMP plan. The DOE only issues the minimum guidelines and the staff is working for the City Manager that you the Council can issues mandatory policies to. Ultimately, we the people elected you to represent US, the PEOPLE of this beautiful island. It should not matter whether the input is in person, at a public hearing (that is very time consuming to most citizens and with all due respect sometimes hard to get a sense that you are being listened to since you can't have any interaction with the council members and have very limited time), through a survey or other means of participating. EVERY opinion should count equally.

NON-CONFORMING ISSUE

1) Petition: a petition by Bainbridge Shoreline Homeowners now has over 1000 signatures that call for these shoreline properties to be called conforming. The list with all names and addresses is available per <http://bainbridgeshorelinehomeowners.wordpress.com/speak-out/we-hereby-petition-the-city-of-bainbridge-island-%E2%80%A8planning-commission-and-city-council-2/>.

This should be the most convincing evidence to the council. It should not have to take all these 1000 people having to show up at the public hearing and wait their turn for hours to speak for 3 minutes to 7 people that don't respond, with all due respect! Besides it would take 3000 minutes or 50 hours! We therefore sincerely hope that the council treats this survey with the same consideration as a 3 minute public hearing testimony, if not with more consideration since the survey contains 8 very specific opinions that have been formulated with great care.

2) SB 5451: as you probably know SB5451 that was passed in 2011 gave COBI the authority to call these structures conforming by using the word "MAY" (call these structures conforming) in section 2 of the bill. Section 1 says that these structures "SHALL" be called conforming. The folks in Olympia took a look at this

issue and concluded that the Shoreline Management Act was never intended to make existing, lawfully built homes go away and passed Senate Bill 5451 almost unanimously.

When we asked Senator Rockefeller's office why the Legislature used "must" in section 1 and "may" in section 2 we were told that section 1 spells out WA state's intent that these structures "must" be treated as conforming but the legislators felt it was easier to get everybody's approval by still giving local governments the option to call them nonconforming! They explained to us that if it goes to court there is no question that these structures are conforming per this state law and will remain.

In this light, it seems that all COBI is doing by insisting on the "nonconforming" language is to irritate shoreline property owners (nobody wants to be told they live in an "illegal" house when they got all proper permits to build it in the first place!), decrease shoreline property values/increase taxes for inland properties, violate the intent of the state law as spelled out by SB5451, invite endless bureaucratic "battles" to obtain perfectly legal permits/increase the costs for the COBI administration and start potential lawsuits without in the end accomplishing any improvement to the environment. So why would the city insist on the "nonconforming" language when you can write in basically the same restrictions for a presently "conforming" structure that rebuilding/remodeling should not be any closer to the shoreline than what is legal in the new SMP, etc.?

Thus, if it's just a labeling issue and the same result will be accomplished if you call these structures conforming so what is the purpose of insisting on calling these structures non-conforming? The answer seems to be in Section 4.2.1.2 that states *"Residential structures that do not conform to this program should, over time as the owner proposes changes to the structure, conform as completely as possible to this program."* This statement would also apply if the structures are called "conforming" but have to comply with the rules of the new SMP when changes are proposed by the owner. Any attempt to remove these structures completely is clearly contrary to the stated objectives of SB5451 and will not hold up in court so why would the city want to violate the intent of the SB 5451 and cause more costs and aggravations?

3) Why are more non-conforming properties better for the environment: the proposed SMP would create many more non-conforming residential structures so the question again is how this will protect the environment any more since these structures will still remain where they are but will now have the label of non-conforming attached to them. This could potentially lower their values, lower taxes on these properties/raise taxes on inland properties, increase financing and insurance costs, etc. that have nothing to do with protecting the environment.

4) Harder to sell waterfront properties: On the first page of the combined form 17), under Seller's Disclosures regarding item 1." Title", the homeowner is required to answer the following question:

Are there any zoning violations, nonconforming uses, or any unusual restrictions on the property that would affect future construction or remodeling?

The seller would have to disclose if the structure is non-conforming which will thus make the sale more difficult and might even stop sales to cautious buyers. Is this the intent of the council and how will this help protect the environment?

5) DOE guidelines: DOE does not require the city to call these properties non-conforming. Actually, the DOE directives clearly allows the city to call these properties conforming. So why would the city want to go beyond the DOE guidelines?

BUFFERS

1) No proof that existing 50' buffers have caused harm: no peer reviewed proof has been presented that increasing the buffers from the present 50' is necessary to protect the environment more than the existing 50' buffer will do. The waterfront homes have not caused any harm to the environment according to existing science. The biggest contaminant into Puget Sound is storm water and the biggest polluter in this regard are the roads, the ferry system, industry and NOT residential properties.

Science has proven that a 16' buffer will prevent 80% of sediments to reach Puget Sound so why would the city need to increase the buffer up to 200'? Most homes, private driveways, etc. are much further away from Puget Sound than 16' with the existing 50' buffer. The solution to a better environment is therefore in better stormwater retention systems (especially for the bigger culprits per above) and NOT in increasing residential buffers.

It is therefore apparent that increasing residential buffers is a politically motivated measure that will NOT clean up the environment. Even worse, it probably will be used to avoid attacking the real culprits that contaminate our beautiful Puget Sound which is storm water, septic/sewer contamination, over fishing, industry waste, etc.. Therefore, please don't make the mistake of "punishing" the wrong culprit just because you have the SMP law to do so.

2) DOE guidelines: DOE does not require the city to increase the buffers above the existing 50'. So why would the city want to go beyond the DOE guidelines without any proof that this is necessary to protect the environment?

Jenny and Claes Hagstromer